

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

ALEXANDER SCOTT POWELL	§	PLAINTIFF
	§	
VERSUS	§	Civil Action No. 1:10CV442HSO-RHW
	§	
MIKE BROWN, ET AL.	§	DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S COMPLAINT
PURSUANT TO FED. R. CIV. P. 4(m)**

This cause comes before the Court on the Report and Recommendation [34-1] of Chief United States Magistrate Judge John M. Roper entered in this cause on May 23, 2011. Magistrate Roper reviewed the pleadings on file and determined that based on the record, Defendants' Motion to Dismiss should be granted. After a thorough review of the record, including Defendants' Motion, the briefs and the relevant legal authorities, the Court, being otherwise fully advised in the premises, finds that the Magistrate Judge properly recommended that Defendants' Motion to Dismiss be granted. Therefore, said Report and Recommendation should be adopted as the opinion of this Court and the above captioned cause should be dismissed without prejudice pursuant to FED. R. CIV. P. 4(m), as Plaintiff has failed to effectuate service of process upon Defendants.

To date, no objection to the Report and Recommendation has been filed by

Petitioner.¹ Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a *de novo* review of it. *See* 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court finds that the Magistrate Judge's Report and Recommendation thoroughly considered all issues, and is neither clearly erroneous, nor contrary to law. The Court, being fully advised in the premises, finds that the Magistrate Judge properly recommended that Defendants' Motion to Dismiss be granted. Said Report and Recommendation should be adopted as the opinion of this Court. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [34-1] of Chief United States Magistrate Judge John M. Roper entered in this cause on May 23, 2011, should be, and the same hereby is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant's Motion to Dismiss filed March 28, 2011 [30-1] pursuant to FED. R. CIV. P. 37 and 41(b), should be and hereby is **GRANTED**, and the above captioned cause should be

¹ The record reflects that Shirley Robinson signed for receipt of the Report and Recommendation on May 24, 2011 [35-1].

and hereby is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED AND ADJUDGED, this the 16th day of June, 2011.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE